IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.538 of 2001

1. The Commissioner of Income Tax
   Dehradun
2. Income Tax Officer Spl. Ward
   Dehradun ... Appellants

Versus

Reading & Bates Exploration Co.
As agent of Mr. J. Griffins
C/o Arthur Anderson & Co.
426, World Trade Centre
Barakhamba Lane, New Delhi ... Respondent

Mr. S.K. Posti, Advocate for the appellants.

Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.

JUDGMENT

1. This appeal if filed against the order dated 28.02.2001 passed by the Income Tax Appellate Tribunal, Delhi Bench 'E', Delhi in I.T.A. No. 1723/Del/1995. The dispute relates to the Assessment Year 1993-94. The assessee is Mr. J. Griffins, represented by Reading & Bates Exploration Co.

2. The substantial questions of law raised in the appeal are as follows:

   (i) "Whether on the facts and in the circumstances of the case, the ITAT was legally correct in holding that free boarding facility provided by the employer at the rig site can not be construed to be perquisite?"
   (ii) "Whether on the facts and in the circumstances of the case, the ITAT was legally justified in directing the AO to charge interest u/s 234-B which also stands amended by the Finance Act, 2001 with retrospective effect from 1.4.1989?"

3. In **Commissioner of Income Tax and another SEDCO Forex International Drilling Co. Ltd. and connected cases reported in (2003) 264 ITR 320,** a Division Bench of this Court held that the free boarding facility provided by the employer on the rig was not a perquisite under section 17(2)(iii) and that its value cannot be added to the income of the assessee. It has been

further held that the imposition of interest under section 234-B was not justified without hearing and without reasons.

4. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.) **(P.C. Verma, J)**

Dated 16.12.2005
LSR